

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 231 of 1996

to

FIRST APPEAL No 237 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and
MR.JUSTICE C.K.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

HEIRS OF DECD.ISHWARBHAI BAKORBHAI

Versus

LAND ACQUISITION OFFICER

Appearance:

MR SANJAY M AMIN for Appellant
GOVERNMENT PLEADER for Respondent No. 1, 2

CORAM : MR.JUSTICE Y.B.BHATT and
MR.JUSTICE C.K.BUCH

Date of decision: 23/03/98

ORAL JUDGEMENT

Per : Y.B. Bhatt, J.

1. Appeals admitted. Mr. P.G. Desai, learned Government Pleader waives service of notice on behalf of the respondent-State.

2. On the joint request of learned counsel for the parties, these appeals are taken up for final hearing today.

3. As a result of the hearing and discussion, it becomes apparent that on the particular facts and in the circumstances of the case, the determination of the market value of the lands under consideration would be covered by a decision of a Division Bench of this Court dated 16th February, 1995 (Coram: B.N.Kirpal, C.J. & A.N. Divecha, J.) in First Appeal Nos. 580/95 to 595/95.

4. As per the aforesaid decision, the market value of the acquired lands was determined at Rs. 50/- per sq. mt. in relation to the relevant notification under section 4 dated 19th February, 1981. On the other hand, the relevant notification with which we are concerned in the present group of appeals is dated 26th March, 1987 i.e. after a lapse of about six years.

5. It is on account of this lapse of six years that the Reference Court has determined the market value of the lands in question at Rs. 65/- per sq. mt. We may further clarify that the aforesaid High Court decision is not the only evidence on record taken into consideration by the Reference Court, but only that the same has been treated to be a substantial and pre-determining factor in determining the market value.

6. It is on this limited aspect of determination of the market value, and what weightage should be given to this lapse of six years, is the issue before us today.

7. Having heard the learned counsel for the respective parties, and having referred to the impugned judgment as also such evidence as the learned counsel for the parties have referred to, we are of the opinion that the market value of Rs. 65/- per sq. mt. as determined by the Reference Court is slightly on the lower side. In this context, we may make reference to the observation of the Reference Court that normally this Court accepts the generally prevailing view that a price escalation at the rate of 12% p.a. is acceptable. However, the Reference Court has not granted an increment by adopting this percentage of increment per year. Without in any way accepting any limitations on the power of this Court as

to what would be the proper figure for price escalation per year on account of lapse of time, we do feel that Rs. 65/- per sq. mt. is inadequate.

7.1 As a result of the further discussion, and having applied our mind to particular facts and circumstances of the case, we are of the opinion that if the acquired lands are valued at the rate of Rs.70/- per sq. mt. the same would meet the ends of justice and fair play, and would also be in consonance with the evidence on record. Accordingly, we determine the market value of the acquired lands at Rs. 70/- per sq. mt.

8. The appellants - land holders would also be entitled to solatium at the rate of 30% and additional compensation at the rate of 12% per annum in terms of section 23 (1)-A of the said Act. The compensation so enhanced by us herein would also attract interest at the rate of 9% per annum for the first year from the date of taking possession and 15% per annum thereof till the date of payment or deposit in the Court.

9. The impugned judgment and awards shall stand modified accordingly. These appeals are partly allowed with no order as to costs.

10. Decree accordingly.

11. The respondent-State is directed to deposit the necessary amount within 4 months from today.

Amp/-